IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22780 of 2004

Between:

1 Nakkela Bala Bhaskara Rao, s/o Late Surya Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
2 Beera Vijaya Kumar, S/o Late Konda Raju,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
3 Gangolu Vara Prasad, S/o Late Subba Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
4 Ramoju Veera Raju, s/o Kaleswara Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
5 Narukula Satyanarayana, S/o Late Venkata Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
6 Netala Emmaniel, s/o late John,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
7 David Gana Ravi Kumar, s/o Late Jayananda Raju,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
8 Pammi Prabhu dasu, S/o Late Raghunadha Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
9 Potala Vijaya Kunmar, S/o Asheervadam,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
10 Boddu Veera Raju, s/o Late Satyam
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
11 Smt. Dasari Akkamma, W/o Pedda Reddy,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
12 Kandikatla Leelavathi, W/o Sanjeeva Reddy,

P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

13 Palli Subrahmanyam, S/o Subba Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

14 Palivela Emmaniel, S/o Late Pothuraju,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

15 Mutyam Chandra Rao, s/o Late Konda Raju,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

16 Duvvarapu Mutyala Rao, S/o Late Brahmam,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

17 Palli Venkata Rao, s/o Late Sundara Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

18 Varsala Dasu, s/o Late Venkanna,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

19 Kolli Satyanarayana, S/o Late Lazar,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

20 Tatta Seeta Ramayya, S/o late china Vasantha Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

21 Sabbiti Prasada Rao, s/o Saheb,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

22 Dangeti Subba Raju, S/o Late Rangayya,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

23 Talari Mutyala Rao, S/o Late Subba Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

24 Regula Surya Prakasa Rao, s/o Nakuludu,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

25 Kandikatla Sanjeeva Reddy, S/o Late Satyam,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

26 Angadi Narasimha Murthy, S/o Late Ram Murthy,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

27 Palivela John Victor, S/o Late Mahalakshmi,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

28 Ponuku Nagendra Rao, s/o Late Buliyya,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

29 Kasimkota Venkata Sai, s/o late Ganeshwara Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

30 Koppisetti Bhavannarayana, S/o Late Pothu Raju,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
31 Pilli Satyam, S/o Late Satya Raju,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
32 Chitturi Swamy, S/o Late Veeranna,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
33 Kunda Raju, s/o Late Prakasam,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
34 Sripadam Subrahmanyam, S/o Late Late Surya Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
35 Karepalli Sai Baba, S/o Late Subba Rao,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
36 Kudipudi Rama Chandra Rao, S/o late Kondayya,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
37 Kudipudi Subba Rao, S/o Late Sathi Raju,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.
38 Karneedi Venkata Subba Rao, s/o Late Venkata Ramayya,
P.W.D. Work Shop, Dowlaishwaram,
East Godavari District.

.... PETITIONERS

AND

1 The Director of Works Accounts, M.J. Road, Hyderabad.
2 The Joint Director of Works Accounts, (Director of Accounts),
S.A.C.B. Project, Dowlaiswaram, East Godavari District.
3 The Assistant Pay and Accounts Officer (A/c), S.A.C. Barrage,
S.A.C.B. Project, Dowlaiswaram, East Godavari District.
4 The Executive Engineer, G.C. Division, Dowlaiswaram,
East Godavari District.
5 The Deputy Executive Engineer, G.C. Division,
Dowlaiswaram, East Godavari District.
6 The Executive Engineer Godavari Head Works Division,
Dowlaiswaram, E.G. District
7 Junior Superintendent/Dyputy Executive Engineer P.W.D. Work Shop

Sub Division Dowlaiswaram, E.G. District
RR 6&7 impleaded as per court order dt. 27-12-2004 in

WPMP 31655 of 2004

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of mandamus declaring the Memo No. DOWA/Sn.I/A-3/2004-05/616, dated -09-2004 as highly illegal, arbitrary, unjust, improper and violative of Section 9-A of Industrial Disputes Act and in total violation of Art. 14 and 21 of the Constitution of India and violation of principles of natural justice and set-a-side the same and consequently direct the respondents to restore and continue payment of area allowance as per the percentage fixed in Standard Schedule of Rates including all arrears and pass such other order or orders

Counsel for the Petitioner: MR.BADANA.BHASKARA RAO

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following:

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ORDER:

This writ petition is filed declaring the Memo No.DOWA-Sn.I/A-3/2004-05/616, dated 09-09-2004 issued by the first respondent as illegal and arbitrary and consequently to direct the respondents to restore and continue payment of area allowance as per the percentage fixed in Standard Schedule of Rates including all arrears.

The brief facts that are necessary for the disposal of the present writ petition may be stated as follows:

All the petitioners are working as N.M.R. workers in various trades such as Helpers, Man Mazdoors, Hammer Man, Carpenters etc in the P.W.D. workshop at Dowlaiswaram and had put up 20 years of service in the work shop by engaging them as labourers. They are being paid the area allowance at the rate of 20% as per the Standard Schedule of Rates fixed by the Department for working within 12 KMs of Municipal limits of Rajahmundry Municipality. As per para 1.0 (A) (b) of the S.S.R, the area allowance is allowed by 20% extra over basic rates on labour component of works in all District headquarters and the remaining municipal limits. The Dowlaiswaram, at which the petitioners are working, is within 12 KMs from Municipal limits of Rajahmundry Municipality.

While so, the Director of the Works Accounts-first respondent herein issued the

impugned Memo No.DOWA-Sn.I/A-3/2004-05/616, dated 09-09-2004 stating that the area allowance provided in the Standard Schedule of Rates is for the estimate purpose and not for actual payment to those engaged on daily wages and that the percentage of area allowance is permissible to add on Labour Component of Works only. Aggrieved by the same, the present writ petition is filed.

A counter affidavit is filed by the respondents 1 to 3 stating the provision in S.S.R. 1.0 (A) (b) allowing 20% extra over basic rates on labour component work is only for preparation of estimates of various works. The Director of Works Accounts has given instructions by the impugned order dated 09-09-2004 that the area allowance provided in S.S.R are for estimate purpose but not for actual payment to those engaged on daily wages as per para 1.0 (A) (b) of the S.S.R., the percentage of area allowance is permissible to add on labour component of works only and it is in accordance with the provisions of S.S.R. and therefore there are no grounds to interfere with the same.

A counter affidavit is filed by the fourth respondent admitting that the petitioners are working on daily wage basis and that the P.W.D. Work shops situated in Dowlaiswaram is within a radious of 8 KMs from Rajahmundry Municipal Limits and the area allowance is being paid to the N.M.R. workers since long time based on the S.S.R. It is further stated
that the admissibility of 20% area allowance is under correspondence with the higher authorities, they have to await further orders and the N.M.R. workers have to accept the bills claimed for wages only and the issue of payment of area allowance will be dealt with separately on receipt of clarification orders from the higher authorities. Therefore, he prays to dismiss the writ petition.

Learned counsel appearing for the petitioners contended that as per the Standard Schedule of Rates, the petitioners are entitled for 20% extra over the basic rates on labour component of work and the same procedure has been following since long time, but now by virtue of the impugned proceedings, the petitioners would be denied the payment of 20% extra over the basic rates and hence he prays to set aside the same. He further contended that the Standard Schedule of Rates will be applied only to the persons working under the work engaged, whenever there is work.

On the other hand, the learned Government pleader for Irrigation and Command Area Development appearing for the respondents contended that the payment of area allowance of 20% extra over the basic rates will not be paid to a daily wage employee and it is only an estimation and that does not confer any right to the petitioners to claim the same. The petitioners will be engaged whenever there is work and therefore the question of paying 20% extra over the basic rates does not arise and hence he prays to dismiss the writ petition.

The petitioners are working as N.M.R. workers in various trades such as Helpers, Man Mazdoors, and Hammer Man Carpenters etc. in P.W.D. workshop at Dowlaiswaram. It is their case that they have put up more than 20 years of service in the workshop by engaging them as labourers. It is not in dispute that the petitioners were engaged by the respondents on daily wage basis. It is also not in dispute that the petitioners hitherto were being paid area allowance at the rate of 20% of the Standard Schedule of Rates fixed by the department. It is also not disputed that the area, in which the petitioners are working, is within 12 KMs from the Municipal limits of Rajahmundry Municipality.

It is specifically admitted in the counter affidavit
filed by the fourth respondent that the P.W.D workshops
situated at Dowalaiswaram is within a radious of 8 KMs from Rajahmundry Municipal limits and the area allowance is being paid to the N.M.R. workers since long time based on the Standard Schedule of Rates.

The learned Government Pleader vehemently contended that the Standard Schedule Rates are only for a technical estimation and the percentage of area allowance is permissible on labour component of works only.

By virtue of the proceedings, dated 09-09-2004 issued by the Director of Works Accounts, it is clarified that the area allowance provided in the Standard Schedule of Rates is only for estimate purpose and not for actual payment to those who are engaged on daily wage basis. Further as per para 1.00 on page 2 of S.S.R., the percentage of area allowance is permissible to add on labour component of works only. The labour component of work has been stated in the additional counter affidavit filed by the respondents 1 to 3, which reads as follows:

> “For each item of work data is prepared to arrive at unit costs of that particular item. In this data the quantity and unit rate of materials for

a unit and the number of various labourers,
required for a unit of item at the rate provided in the S.S.R are furnished.
The portion of the cost of
unit for labour as mentioned above is the labour component."

Admittedly, all the petitioners are engaged for discharge of labour work, only whenever there is work. Therefore, the petitioners are entitled for the area allowance of 20% extra over the basic rates. Even though the Director of Works Accounts stated that the area allowance is permissible to add on labour component, the petitioners who are engaged on daily wage basis will come within the meaning of labour component work, because they are not supplying any raw materials. There is no need to give a different interpretation to that labour component of work. Perhaps that is the reason why for all these years, the petitioners were being paid the area allowance of 20% extra over the basic rates.

It is a Common Standard Schedule of Rates for
All Engineering Departments for the year 2004-2005. There
is no indication that it is only for estimation purpose and not for paying the amounts as per the rates. The rates have been specifically fixed at Rs.131/- per day for semi-skilled workmen. When a daily wage is fixed, it cannot be said that it is only for estimation purpose. Therefore, the contention of the learned counsel for the respondent cannot be accepted in view of the fact that these rates, fixed by the Engineering Department, are the minimum wages for the employees who are working under the work charged in the departments. Since the Standard Schedule of Rates are also provides for payment of area allowance, the petitioners are entitled for the same.

Therefore, for the aforesaid reasons, the writ petition is allowed. No order as to costs.

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JUSTICE K.C.BHANU

Dated July 18, 2005.

Note:

Issue C.C. in one week.

(B/o)

YCR

Rule nisi is made absolute as above.

Witness the Hon'be Sri Bilal Nazki, the Acting Chief Justice on this

Monday, the Eighteenth day of July Two thousand and five.

To

1 The Director of Works Accounts, M.J. Road, Hyderabad.
2 The Joint Director of Works Accounts, (Director of Accounts), S.A.C.B. Project, Dowlaiswaram, East Godavari District.
3 The Assistant Pay and Accounts Officer (A/c), S.A.C. Barrage, S.A.C.B. Project, Dowlaiswaram, East Godavari District.
4 The Executive Engineer, G.C. Division, Dowlaiswaram, East Godavari District.
5 The Deputy Executive Engineer, G.C. Division, Dowlaiswaram, East Godavari District.
6 The Executive Engineer, Godavari Head Works Division, Dowlaiswaram, E.G. District
7 The Junior Superintendent/Deputy Executive Engineer

P.W.D. Work Shop Sub Division Dowlaiswaram, E.G. District
8. 2 CCs to G.P. for Irrigation and Command Area Development, High Court Buildings, Hyderabad. (OUT)

9. 2 C.D. copies.